

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 2137 of 1993

with

FIRST APPEAL No 2138 of 1993

Hon'ble MR.JUSTICE Y.B.BHATT and

MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

STATE OF GUJARAT

Versus

PATEL KANTILAL RANCHHODLAL

Appearance:

1. First Appeal No. 2137 of 1993
MR LR POOJARI, AGP for Petitioners
MR PRANAV G DESAI for Respondent No. 1
 2. First Appeal No 2138 of 1993
MR PRANAV G DESAI for Petitioners
MR LR POOJARI, AGP for Respondent No. 1
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CORAM : MR.JUSTICE Y.B.BHATT and

Date of decision: 20/07/98

COMMON ORAL JUDGEMENT (Per: Y.B.Bhatt,J.)

These two appeals are cross appeals under Sec.54 of the Land Acquisition Act read with Sec.96, CPC, each of which challenges the common judgment and award passed by the Reference Court in Land Reference Case No.30 of 1985 under Sec.18 of the said Act.

1.1 First Appeal No.2137 of 1993 has been filed by and on behalf of the State of Gujarat whereas First Appeal No.2138 of 1993 has been filed by the claimants-original landholders.

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#. We have heard the learned counsel for the respective appellants in respect of the impugned judgment, and we have examined the evidence on record. We have also perused the original record and proceedings which are available with us.

#. During the course of hearing and discussion, we had occasion to express our prima-facie and tentative opinion that the evidence on record is scanty and not satisfactory in nature and character. It appeared to us that the evidence such as it is may not provide adequate material to determine the market value of the acquired lands which could be based only upon the evidence on record. Under such circumstances, we expressed a tentative and prima-facie opinion that it appeared to be a case of "insufficient evidence" and perhaps we may be required to remand the matter to the Reference Court for additional evidence.

#. At this stage the learned counsel for the respective parties made a joint submission that an order of remand may not be in the interest of either side, in view of the heavy backlog of cases pending before the Reference Court, and that even after the decision in remand, fresh appeals would most likely be filed, which in all probability may not be heard by this Court before the year 2005 or thereabout. In this context, it is pointed out to us that the present appeals which are of the year 1993 are being taken up in the year 1998. In this context, our attention was drawn to a decision of the Supreme Court in the case of K. Krishna Reddy reported at AIR 1988 Supreme Court page 2123, where the Supreme Court has laid down the broad principle that the Appellate Court while dealing with the land reference cases should avoid orders of remand as far as possible,

in as much as the same are likely to work to the prejudice of either or both the sides.

#. Under these circumstances, while keeping in mind whatever evidentiary material is on record, we invited learned counsel for the respective parties to come together and to give us their assessment of the fair market value, no doubt based upon their own individual assessment of the evidence on record from their respective perspectives. Learned counsel for the respective parties accordingly did so, and when it was found that the difference between their figures so arrived at was narrow, invited us to bridge the gap.

#. It is under such circumstances that we are required to determine the market value of the acquired lands in question. Needless to say the market value determined herein cannot and shall not be a precedent to be applied to other acquisitions under the same notification issued under Sec.4, and/or for the purpose of deciding other appeals in cognate acquisitions.

#. As aforesaid, we have applied our minds to such evidence as is found on the record, and the market value which we are determining herein, is based both upon such evidence, and upon the figures given to us by the respective counsel.

#. Accordingly, we determine the market value of the acquired lands at Rs.23/- per sq. mtr. The impugned judgment and award of the Reference Court shall stand modified accordingly and only to the aforesaid extent.

#. Accordingly, First Appeal No.2137 of 1993 filed by the State stands dismissed with no orders as to costs and First Appeal No.2138 of 1993 stands partly allowed with no orders as to costs. Decree accordingly.

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